BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

EDWARD TORREZ) Claimant)	
VS.	Docket No. 240 050
CONSTRUCTION RESOURCES CO.	Docket No. 210,950
Respondent) AND	
BUILDERS' ASSOCIATION SELF-INSURERS	
FUND) Insurance Carrier)	

ORDER

The respondent and its insurance carrier requested review of the preliminary hearing Order entered by Administrative Law Judge Alvin E. Witwer dated May 22, 1996.

ISSUES

The Administrative Law Judge awarded claimant medical and temporary total disability benefits for a work-related accident that occurred on July 6, 1995. Respondent contends claimant has failed to prove his present low back and right hip problems were either caused or aggravated by his work-related accident. That is the only issue on this review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds:

The preliminary hearing Order of the Administrative Law Judge should be affirmed. The Appeals Board agrees with the analysis and conclusion of the Administrative Law Judge that it is more probably true than not that claimant's right hip and low back were aggravated by his July 6, 1995 work-related accident when he was struck and knocked to the ground by a heavy construction form. In addition to claimant's testimony, one of claimant's treating physicians, Dr. Sheffer, believes the trauma that claimant experienced in that incident certainly could cause cartilaginous necrosis and produce the rapid arthritic

changes that now exist in claimant's right hip. Dr. Sheffer relied upon claimant's history that prior to his work-related accident his hip was asymptomatic but shortly afterwards claimant began to notice some minor pain which progressively developed in severity. In addition, the physician selected by the respondent, Dr. Ebelke, acknowledged in his records that claimant's preexisting spinal stenosis and degenerative spondylolisthesis could have been aggravated by the July 1995 accident.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Alvin E. Witwer dated May 22, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.
Dated this day of July 1996.
BOARD MEMBER

C: Michael Lawless, Overland Park, KS Wade A. Dorothy, Lenexa, KS Alvin E. Witwer, Administrative Law Judge

Philip S. Harness, Director